

Cleary
158 N. Willard St.
Burlington, VT 05401
3/15/21

Scott Gustin
Planing and Zoning

Scott,

I am writing to you with a number of concerns about the Zoning Application **ZP# 21-0749FC**. Without clarification of the location of the proposed structure to existing/permitted structures, Mr. Purvis' application should not be accepted as submitted. There are a number of other concerns which should be addressed before approval.

Mr. Purvis has a longstanding violation with the city regarding parking on the south side of his property. He has lost all appeals on this matter since 2014 at the local and state level, all the way to the Vermont Supreme Court, where the DRB decision was upheld as FINAL. For more information, please contact Attorney Kimberlee Sturtevant for the current state of enforcement of this matter. It should be resolved before new Zoning Permits are approved.

Is it appropriate to award Mr. Purvis new Zoning Permits when he refuses to remedy previous violations? Obviously he does not have plans to make the required changes requested by the DRB and upheld by the VT Supreme Court. By contesting those results on this application, stating, "Non Conforming Use from 1968 misclassified as violation", it appears that Mr. Purvis is trying to get this misleading statement accepted into the public record by other means. He has incorporated false information and un-addressed violations into his application and drawing in order to attempt to launder them into legality. The Zoning application lists "existing" and "proposed" use as a triplex, but it is recognized as duplex by the City. The house, garage, driveway and a concrete "slab" all have area-dimensions, but not the "walk" and patio, recently constructed, which did not appear on previous plans for lot coverage submitted to the City. Most importantly to this application he has purposefully omitted a related, adjacent structure, the fence between our properties, and its relationship to the "gate spur". Unless Mr. Purvis has been authorized by the City to absolve his own violations and erase our Permitted and Certified fence, he should not be allowed to use this application to do so.

Regarding the Proposed Fence itself, he has not marked the location at all for the proposed gate. Significantly, he has not included in this drawing our fence which was built in 2015. Any plan or proposal should include permitted adjacent structures, and this is a huge red flag for this application. Please require Mr. Purvis to submit a plan that accurately shows our properly permitted fence *in it's entirety (not a partial drawing)*, and the relationship of his proposed gate to that fence. For your reference, our fence was built under Zoning Permit 16-0440FC and has received a Certificate of Occupancy.

The proposed plan appears drawn to deceive. On his application Mr. Purvis has **erased the permitted fence** between our properties, and instead included a bold line that matches the legend, "proposed fence line" in a place where no fence exists, well within our property. This suggests that Mr. Purvis is proposing putting a fence there, without explicitly saying so. This is in the area where he has also labeled our property as a "Non Conforming Use", without reason or authority to do so. **This is absurd.** The City of Burlington should not allow Mr. Purvis to adjudicate his own and our property use, and should not accept a Zoning Application as a Trojan Horse for other property issues. Curiously, Mr. Purvis has labeled the bottom of each page with the disclaimer, "No changes to existing uses, structures, boundaries proposed."

However,³ simple observation of his plan shows the exact opposite and is more in line with statements he has made to me in person about the matter. A more acceptable plan would show the entire existing fence and easement without confusing the viewer about the location of the proposed fence.

We proposed and built our fence (the one that is completely omitted from the submitted plan) to be 1' set back from the property line, and I would ask that Mr. Purvis' fence be required to respect the same setback for the proposed "spur" for the driveway gate. Without a more accurate plan it is impossible to know exactly where this "spur" is proposed, its relation to the existing fence, and setback from property line.

It is extremely important that Mr. Purvis and I can both maintain and fix our respective properties without crossing property boundaries. That is why our fence is set back, according to the City guidelines. The City requires the finished side to face outward, so if a panel or board needs replacing, I can do so in the 12" of my property outside of the fence line. Since Mr. Purvis' plan does not include any details about setback from the existing property lines, we have no idea where the fence will terminate. The City should not permit a permanent structure which crosses the property line or connects to our fence/structure, as this would disallow the access which I built into our permit. I would ask the city to require Mr. Purvis to mirror the 1' setback that we planned and built, as this was done for both of our benefits. I would also ask that the City not Certify Occupancy for any "as-built" changes to the fence that crosses the property line, violates setback, or connects to our fence without express permission, hereby withheld.

Scott, I appreciate your attention to the detail of this matter and laid out in this letter. It's extremely important that the application is reviewed for accuracy before any permit is approved. In this case, with a history of violations by Mr. Purvis, and conflicts over this area, the City should be particularly careful with this application. I would ask that the City not legitimize or allow into public record the Erasure of permitted structures, or the unauthorized self-absolution of previous violations by the property owner. The City has spent years and (presumably) thousands of dollars in order to persuade Mr. Purvis to comply with a simple parking directive. His unwillingness to do so should not be rewarded with new permits until his property is brought into compliance on that issue. We would ask that the City require from Mr. Purvis a more complete application and plan, one that shows all permitted, adjacent structures in their entirety, with clear renderings of proposed new structures, including setback from property lines.

From a purely design and aesthetic perspective, Mr. Purvis' proposed horizontal Cedar fence looks quite nice, and I know that he and surrounding neighbors will appreciate the privacy that it may provide. Good fences make good neighbors, and I appreciate your work to ensure that this proposal complies with relevant code and existing structures.

Thank You,

Joseph and Teresa Cleary
158 N. Willard St.

Network: Mar 15, 2021 at 12:02:01 PM EDT
Local: Mar 15, 2021 at 12:02:01 PM EDT

